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FILED
JUN 13 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY [signature] DEPUTY

United States District Court
Southern District of California

NoorEddine EL ASALi, Plaintiff v. San Diego, Rich Illes, Scott Meloud, John Swets, Lorenzo and Lori Ortiz, Does 1-100 Defendants	Case No. 07CV2272 W JMA Plaintiff Opposition To Defendants Motion To Dissmiss, And Points and Authorities Date: June 30, 2008 Judge: Hon. Thomas. Whelan Dept.: 7

Plaintiff move to oppose and ask the court to deny defendants Motion to dissmiss because it is untimely. According to local rules defendants should file and serve by mail at least 31 days before hearing. Defendants mailed me their Motion in an envelope stamped June 3, 2008 since the hearing is on June 30, 2008 their motion

Should be filed and served no later than May 30, 2008 which is 31 day from hearing. Also my P O Box added more delay which left me with only a few days to oppose the motion, So I called Davina Bloom today to request an extention from her but I did not get it.

The plaintiff would like also to ask the court to deny this motion on its merits, there fore the court should look at the complaint as a whole in ruling on this motion and the plaintiff is also giving example of his claim in exhibit A. And even if plaintiff neglected to include yurisdictional allegations (or alleged yurisdictional grounds incorectly) the motion should be denied, if other allegations in the complaint clearly indicate federal yurisdiction (e.g. a federal question). Cook v. Winforey (7th cir. 1998) 141 F3d ~~322~~, 324.

Imperfection in pleading style will not divest a federal court of yurisdiction where the complaint as a whole reveals a proper basis for yurisdiction.

Now also the plaintiff bears the burden of proofing the court's yurisdiction and he should be given the opportunity to discover facts supporting the jurisdictional allegations in the complaint I asked Devina Blom and I ask the court for that opportunity.

It is an abuse of discretion to dismiss for lack of jurisdiction or lack of subject matter jurisdiction without giving plaintiff reasonable opportunity to conduct discovery for this purpose. (Majd-Pour v. Georgiana Comm. Hosp. Inc, (11th cir. 1984) 724 F2d 901, 903.

Laub v. United States Dept of interior (9th cir 2003) 342 F3d 1080, 1093.

National resources Defence Concil v. Pena (DC cir. 1998) 147 F3d 1012, 1024.

Sureride DBA San Diego charter is in deed in violation of title VII and also subject to 15 employee minimum requirement

Also Scott Mcleod fired me for retaliation of reporting his which is it self an employment discrimination (federal) dating back to civil war era, 1866.

Because of time expiring now I will move briefly to deny all defendants wrong accusations.

The amount of damages far exeeds $75000. My wages only are in hundred of thousands dollars + my commission

is also in hundred of thousands dollars + punitive damages.
I filed in state and federal court to meet statue of limitations and as a matter of ~~w~~ right and to preserve and protect my rights until I get an attorney. I alread requested appointment of attorney immediately and was dilligent. I will not sue for same claim and I reserve the right to amend and adjust my complaint as requested before. I will sue for different claims if I have right. Also State may sustain demurer and close my case and I have the right to sue in one court. Also defendant contributed to the complication of this case by dilatory tactics and by ovoiding to be served by liying to the Marshal and Sheriff that the owner & employee not longer work at Seneride which is an obstraction of justice and delaying the process of this case which require terminating sanctions. Therefore plantiff request terminating sanctions.

I object to defendants demand for Sanctions because it is improper and also Davina Bloom lied in her declaration about sanctions when she called me we only talked about Settelment and she offered me $1008.00 to settle which I did not accept, I told her I will settle to get back my job and back pay + commission .. and she said because I sued the company I will not return, It is also company policy, I told her that it is up to Judge and law to reinstate me at my job, she disagreed and told me if you do not settle I will dismiss the case and I said I will oppose it and let a Judge decide. She also lied that John Swets is a past employee he is working for Sunrider and she is with holding a lots of valuable info. from Court. I request Sanctions against all attorneys involved and thiers law firm.

Date: 06-13-08

Noureddine ELASAL

Exhibit A

Nour Eddine EL ASALi
3040 CANON st.
SD. CA. 92106

3-9-05

To: Rich Illes.

Dear Rich:

I've called and left you three messages and Informed you that Scott has fired me. I have not heard from you that's why I am writing to you this letter.

I have also called Al before you, because I was told that you were out of town but he informed me that he was with you in Las Vegas, so I briefly told him that Scott has fired me and had been insulting me and also followed me to my car and was kicking it and trying to fight, he was also asking me to return the phone and I told him I want to talk to Rich.

Al expressed his sadness about the situation and told me that he was going to see you in 5 minutes and will inform you about what happen, it was Th. 2-24.

Even though we had three meeting with Scott and asked him to stop harrassing me he wouldn't lesten to you, in fact he has increased his harrassment to me and vowed retaliate and get revenge because I reported him

During these meeting I've explained to you that Scott has developped his hate against me since we worked at Cloud 9 in Summer 02. He wouldn't put me on the bus schedual even though I asked him several times, he always said next week, next week... One week driver Skorheim and another driver who just got their driver licence (Class B + P. endors.) were on the bus schedul and me who had my Bus driver licence since 87 is still waiting. Scott told that they told him that during the training I praid. He was refering to the day we were training at the parking lot of sports Arena, the trainer asked me to help Skorheim and the other driver with the cones since I already have my licence, he was going to lunch, after we finished I went and did my prayer. So, I told Scott it is wrong to discriminate against me because of my religion, he couldn't disgree with me that's when he finally put me on the bus schedual but this also has led to other problems with him and other employees where I was harrassed all the time...

I end up by getting a job at San Diego in Dec 02. Al ~~and~~, Caesar and the rest of the employees welcomed me with ~~open~~ arms, we all got along very well. I was extremly very happy and that helped me alot doing my job with excellent performence. A lot of our customer called and expressed their happiness with my job performence and some of them even wrote that my performance was above and beyond expectation...

Even though I left Cloud 9, Scott Kept on Calling you and talking negative about me When he came to San Diego, as soon as you let him have access to the schedual he started changing my assigned bus 46 to 57. I reported that to Rosa one morning and she told me take bus 46 that was originally assigned to you. When Scott came in the afternoon he called me and started yelling at me and telling me to ~~bring~~ the bus 46 for a switch, I was at Camp Pendelton when he called leaving to a second Job, so I had to Keep 46. (this is typical Cloud 9 harrasment)

Since Rosa wouldn't put up with his childish behaviour, he turned to John Swets and made good freindship with him and talked negative about me. First John used to call me Hey E-d-die (prolonging my name) then he used to call me Eddie Hollywood, we used to get along verywell. As soon as he started to hang out with Scott he started Calling me Hey Terrorist, he also used Terronism Jokes and Aviation Jokes (typical Cloud 9 Harrasment)

One day I came to the office, Scott's wife was there with Scott, John and other drivers and I was introduced as here is the other TERRORIST and Started their Jokes, they also refered to Sam Attala as ~~the~~ a terrorist. Another day at the driver's room John Came and Started Shouting at Attalla Hey OUSAMA BEN LADIN Where are you going?. Attala just grabed his trip sheet and left towards his bus without answering him his face looked very sad. One day while we were doing a Shuttle customer called Danielle and complained that they don't Know the bus destination so they were fighting to get on any bus that come for pick up, when I told this to John I said that's why I asked for a bus with working P.A. he answered you don't need a microphone just open your jacket and tell the passengers that you have bombs and they will behave, or just tell them I don't speek English, immitating my accent with a heavier Accent...

John has learned these cloud 9 harrassment tactics first from Scott before he helped him how to use the computer for schedual. John was ~~so~~ weak that find himself very obliged to do anything Scott tells him in order to succeed at San Diego.

One Friday I turned on my phone around 2PM, after I got out of Mosque and I found a message from John saying that he called around 12pm. and I have 1 hr. to return his call or he will removed me from schedual. He Knows him & Scott that on Fridays I go to Mosque between 12pm & 2pm and I alway turn off my phone and schedual they are always given around 4pm specially on Fridays because of Weekend so when I confronted him with these info. he hang up on me so I had to come to office, we called you and you came down and found him yelling at me, so the first thing you told him I don't like the way you talk to him like this. Again he got these instructions from Scott. You should also hear Scott when he was insulting me the day he fired me it would even upset you more, that day he also tried to get physical with me but I left and avoided fighting with him. Also Last Nov. at Convention Center we were changing shifts from doing a shuttle, Scott was inside the San Diego customer service van trying to find out the missing drivers before returning to yard so he was calling names at one time he called Nathan and Nathan replied I am here, Scott did not like the way Nathan answered him so he jumped from the Van towards Nathan's face outside the Van and started yelling and shounting and insulting Nathan. Scott was sticking his head in Nathan's face, Scott was Wearing Sun Diego drivers uniform so was Nathan in front of Sun Diego Van & logo. It didnot look good to the employees of the shuttle customer specially when they learned that Scott was a manager. I was next to Nathan and I saw his bottom lip shivering moving up and down from anger and saying I was just answering you. I was amazed at the way Nathan controlled him self because he looked stronger than Mike Tyson and choose not to fight with him It's clear that you're trying to help scott because his your friend but he's abusing your trust and friendship and causing some serious damage to Sun Diego Co. At Cloud 9 he was one of the major people who mistreated the drivers which led to a class action Lawsuit where Cloud 9 was hit with a multimillion dollards jugement and had to file for bancruptcy...

I informed some drivers from cloud 9 that we were hiring drivers, they all replied that they would love to come to Sun Diego because it's a bigger co. has newer buses

Or brand new buses, but because Scott is there they prefer not to.

Scott has constantly harrassed me and caused me some serious Imotional distress and interfered With my job performance. I've been very patient with all of this and I respected your friendship with him but I strongly request from you this time to protect me from him and I would request you to assign me to work with American Holidays just like Forston is working with American Dring and also assign me to a Setra S417, like this Scott will not be able to change my schedual or my bus. You also Know that American Holidays tour guides request me a lot, they even sent you a fax last season, I Know their Itenerary I did it several times, their customer like me a lot, not only because I speak their langage or Know their culture but because they see me working hard all time, I also showed you one of their compliment card written in English and I have a lot written in French. I get a long with the tour guides and the customers and also Pascal the owner of American H. is very pleased with that. It's also good for San Diego.

If you would like to discus this further, my mailing adress is: PO Box 6952
SD CA. 92166

Finally thank you in advance for what ever consediration you may give this matter.

Nour Eddine ELASALI
N. Elasali

Declaration of Nour Eddine ELASALi (Plaintiff) in support of Motion to dismiss Opposition

I ~~declar~~ Nour Eddine ELASALi declares as follow,

1. That I received the motion in an envelope Stamped June 3, 2008

2. That when Davina last call me it we only talked about settlement and she never mentioned Sanctions and I never told her it is fine if I get sanctions. That I do respect the law, the court and Judges.

3. I called Davina today for extention and she did not give it to me.

4. Because of time expiring I deny any wrong accusations —

I declare under penalty of perjury of California that the foregoing is true.

Dated in San Diego, CA
06-13-08

Nour Eddine ELASALi
[signature]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Nour Eddine ELASALI)
Plaintiff)
vs.)
San Diego, Rich Elles, Scott McLeod, John Swets, Lorenzo and Lori Ortiz, Does 1-100)
Defendant)

NO. 07 CV 2272 WJMA

DECLARATION OF SERVICE

Person served:

DAVINA A.B Bloom, Esq

Date served:

06-13-08

I, The undersigned declare under penalty of perjury that I am over the age of eighteen years and not a party to this action; that I served the above named person the following documents:

Opposition to motion to Dismiss, Exhibit A and Declaration of plaintiff

In the following manner: (check one below)

1) ___ By personally delivering copies to the person served.

2) ___ By leaving, during usual office hours, copies in the office of the person served with the who apparently was in charge and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left.

3) ___ By leaving copies at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of his/her office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left.

4) ___ By placing a copy in a separate envelope, with postage fully prepaid, for **each address named below** and depositing each in the U.S. Mails at San Diego, Ca on 06-13-08

DAVINA A.B. Bloom, Esq
4520 Executive Dr, Suite 105
SD, CA 92121

Executed on 06, 13, 2008 at San Diego, California

[signature]